

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

PAULA ELAINE SMITH

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Case No. 4:07cr77
(Judge Schell)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on January 18, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Stevan Buys.

On April 1, 2008, Defendant was sentenced by the Honorable Marcia A. Crone to sixty (60) months' custody followed by three (3) years of supervised release for the offense of Conspiracy to Possess, Steal, or Receive Stolen Mail Matter. On August 18, 2008, the sentence was amended to thirty (30) months of imprisonment followed by three (3) years of supervised release. On February 17, 2011, Defendant's supervised release was revoked and she was sentenced to six (6) months of imprisonment followed by twenty-four (24) months of supervised release. On June 24, 2011, Defendant completed her new term of imprisonment and began service of her new supervised term.

On December 8, 2011, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated several standard and special conditions. Violation allegations one, four, five, and seven were dismissed by the Government. The petition also alleged violation of the following additional standard conditions: (1) the defendant shall report to the probation officer, and shall submit a truthful and complete written

report within the first five days of each month; and (2) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer. The petition also alleged violation of the following special condition: the defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer.

The petition alleges that Defendant committed the following acts with regard to the remaining violations: (1) Defendant failed to report in person to the U.S. Probation Officer on November 30, 2011. Defendant failed to submit a written monthly report for the month of November 2011. Defendant submitted delinquent written monthly report for the month of October 2011; (2) When questioned by the U.S. Probation Officer on October 19, 2011, as to how her job at Wal-Mart was going, the Defendant responded that her job was going well, with the full knowledge she had been previously terminated on October 10, 2011; (3) Defendant failed to submit random urine specimens at McCary Counseling Services, Denton, Texas on July 27, 2011, October 4, 2011, November 21 and 30, 2011, and December 5, 2011; and (4) Defendant failed to attend substance abuse counseling at McCary Counseling Services, Denton, Texas, on November 1, 15, 22, and 29, 2011, and December 6, 2011.

Prior to the Government putting on its case, Defendant entered a plea of true to the remaining violations.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eight (8) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of

Prisons, Carswell/Fort Worth Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing.

Defendant and the Government also waived their right to file objections.

SIGNED this 19th day of January, 2012.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE